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Attorneys for Defendant,
PETSMART LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT -SOUTHERN DIVISION**

JOHN BANKS,

Plaintiffs,

v.

PETSMART, LLC; and DOES 1through,
20, inclusive,

Defendants.

CASE NO. 8:22-cv-01353

**NOTICE OF REMOVAL OF ACTION
TO UNITED STATES DISTRICT
COURT UNDER 28 U.S. CODE §§ 1441
and 1446 (DIVERSITY); DEMAND FOR
JURY TRIAL; DECLARATION OF
RUDIE D. BALDWIN**

Complaint Filed: October 28, 2021
Trial Date: April 27, 2023

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE that Defendant, **PETSMART LLC** (“Defendant”) hereby removes the above-entitled action to the United States District Court for the Central District of California, pursuant to 28 U.S. Code §§ 1441 and 1446. As grounds for removal, Defendant respectfully states:

BACKGROUND

1. On or about October 28, 2021, Plaintiff, JOHN BANKS (“Plaintiff”) commenced a civil action in the Superior Court of the State of California for the County of Los Angeles, captioned *John Banks. v. PetSmart LLC, et al.* Case No. 21STCV39759 (the “State Court Action”). A true and accurate copy of Plaintiff’s Complaint in the State Court Action is attached hereto as **Exhibit “A”**.

2. The Original Complaint was served on Defendants’ Agent for Service of Process on November 5, 2021.

3. At the time Defendants were initially served, there was insufficient information upon which to assess diversity jurisdiction, in regard to the amount in controversy.

4. Defendant’s Answer was served on November 29, 2021.

5. Defendants served initial discovery shortly after filing an answer in the State Court action. Plaintiff’s responses to initial discovery were served on January 26, 2022, and identified approximately \$12,784.08 in past special damages:

- Los Angeles City Fire Department (ambulance); 200 North Main Street, 1620 Los Angeles, CA 90012, from which he received emergency transportation on 06/29/2020, at an alleged cost of \$1,699.00;
- Providence Holy Cross Medical Center; 15031 Rinaldi St, Mission Hills, Ca 91345, from which he received evaluation and treatment, at an alleged cost of \$3,281.00;
- Professional Imaging Medical Group; 2790 N Academy Blvd Suite 229 Colorado Springs, CO 80917, from which he received imaging at an alleged cost of \$2,052.00;
- Dignity Health (Dr. Brian Solberg, MD) 1414 S Grand Ave St 123, Los Angeles, CA 90015, from which he received evaluation and treatment at an unknown cost;

- Kim Holistic Foot and Ankle Center; 701 E 28" St #111, Long Beach, CA 90806., from which he received evaluation and treatment at an alleged cost of \$5,752.08.

A true and accurate copy of Plaintiff's response to Form Interrogatories is attached hereto as **Exhibit "B"**.

6. Thereafter, Defendant conducted discovery regarding the medical providers identified and learned that \$2,739.79 in amounts were paid by insurance and \$7,209.00 was outstanding (total charges, to date, equal \$18,935.00; of which \$8,986.21 was written off).

7. Next, Defendant served a request for statement of Damages on June 10, 2022. A true and accurate copy of Request for Statement of Damages is attached hereto as Exhibit "C".

8. On June 21, 2022, Plaintiff, JOHN BANKS served responses to Defendant's Request for Statement of Damages. A true and accurate copy of Plaintiff, John Banks' responses to Defendant's Request for Statement of Damages is attached hereto as **Exhibit "D"**.

9. On June 21, 2022, in his responses to Defendant's Request for Statement of Damages, Plaintiff, JOHN BANKS alleged damages in excess of \$75,000.00, including hospital expenses and bills totaling \$277,984.45; Doctor and medical practitioner bills totaling \$11,085.08; general damages of \$10,000,000.00; and future medicals of \$1,000,000.00 (See Plaintiff, John Banks' responses to Defendant's Request for Statement of Damages Page 2, Lines 1-8, attached hereto as **Exhibit "D"**).

10. Accordingly, this Notice is timely filed in compliance with the requirements of 28 U.S.C. Sections 1441 (b), 1446 (b)(3).

JURISDICTION

11. This matter is removed to the United States District Court for the Central District of California, on the grounds that there is complete diversity of citizenship between Plaintiff on the one hand, and Defendant on the other hand, and Plaintiff, JOHN BANKS recent response to the Defendant's Request for Statement of Damages asserts that the amount in controversy exceeds \$75,000. The facts supporting jurisdiction are as follows:

12. Plaintiff, JOHN BANKS alleges that he is a citizen of the State of California, County of Orange. (See **Exhibit "B"** Plaintiff's responses to Form Interrogatories 2.5, Page 2, line 12).

13. Defendant, PETSMART LCC was, and currently is, incorporated in the State of Delaware. (Attached hereto as **Exhibit "E"** is a true and correct copy of Defendant, PETSMART's Limited Liability Company Certificate of Formation. PETSMART principal place of business is located in Phoenix, Arizona. (Attached hereto as **Exhibit "E"** is a true and correct copy of Defendant, PETSMART LLC's Statement of Information, filed with the State of California, Secretary).

14. Accordingly, Defendant is not a citizen of California, PETSMART LLC principal place of business is located in Phoenix, Arizona. The citizenship of all defendants is diverse from that of Plaintiff.

15. Plaintiff does not allege that PETSMART, LLC, has a principal place of business in California, and PETSMART, LLC, is registered as an out of state entity.

16. PETSMART, LLC, members reside in the state of Arizona. (Attached hereto as **Exhibit "F"** is a true and correct copy of PETSMART, LLC, Foreign Registration Statement, filed with the state of Arizona, Department of Commerce).

17. Plaintiff does not allege that PETSMART, LLC, has a principal place of business in California.

18. Plaintiff does not allege that Defendant, PETSMART LLC, is a corporation organized and existing under and by virtue of the laws of the State of California. Plaintiff does not allege PETSMART LLC, has a principal place of

1 business in California.

2 19. Accordingly, Defendant is not a citizen of the State of California, where
3 the action was brought, and the citizenship defendants is diverse from that of Plaintiff.

4 20. The underlying state court action is a civil action which arises from a
5 personal injury damage claim, wherein Plaintiff claims that JOHN BANKS suffered
6 severe injuries when he slipped and fell approximately twenty feet from a ladder at
7 PetSmart, on June 29, 2020,. (*see* **Exhibit “A”**, Complaint, Paragraphs 5-7).

8 21. Plaintiff, JOHN BANKS claims that he suffered numerous injuries and
9 damages. Plaintiff recently represented that the amount in controversy exceeds
10 \$75,000 in an itemization of damages.

11 22. On June 21, 2022, in his responses to Defendant's Request for Statement
12 of Damages, Plaintiff, JOHN BANKS alleged damages in excess of \$75,000.00,
13 including hospital expenses and bills totaling \$277,984.45; Doctor and medical
14 practitioner bills totaling \$11,085.08; general damages of \$10,000,000.00; and future
15 medicals of \$1,000,000.00 (See Plaintiff, John Banks' responses to Defendant's
16 Request for Statement of Damages Page 2, Lines 1-8, attached hereto as **Exhibit**
17 **“D”**).

18 23. At the time Defendant was initially served with the Complaint, there was
19 insufficient information upon which to assess diversity jurisdiction, in regard to the
20 amount in controversy.

21 24. The underlying State Court action is one in which this Court has original
22 jurisdiction under the provisions of 28 U.S. Code § 1332, and is one which may be
23 removed to this Court by Defendant, pursuant to the provisions of 28 U.S. Code §§
24 1441 and 1446 (b)(3), in that it is a civil action wherein the amount in controversy
25 exceeds the sum of Seventy Five Thousand Dollars (\$75,000), exclusive of interest
26 and costs, and is between entities of different states.

27 **AMOUNT IN CONTROVERSY**

28 25. Over \$11,000,000 per an itemization of damages was served on, or about,

1 June 21, 2022. See **Exhibit "D"**.

2 **NOTICE**


3 26. Pursuant to 28 U.S. Code § 1446 (d), proper notice will be given to
4 Plaintiff herein, by and through counsel of record, and to the Clerk of the Superior
5 Court of Los Angeles, which will be filed in that Court. A true and correct copy of
6 such notice is attached as **Exhibit "G"**.

7 **DEMAND FOR JURY TRIAL**

8 27. Pursuant to the Seventh Amendment to the United States Constitution
9 and Rule 38(b) of the Federal Rules of Civil Procedure, Defendant, PETSMART LLC
10 hereby respectfully demands a trial by jury.

11
12 DATED: July 21, 2022

AMARO | BALDWIN LLP

13
14 By: 
15 RUDIE D. BALDWIN
16 Attorneys for Defendant,
17 PETSMART LLC
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DECLARATION OF RUDIE D. BALDWIN

I, RUDIE D. BALDWIN, declare:

I am an attorney, duly licensed to practice law in all the courts of the State of California and the United States District Court, Central District of California, and am a partner in the law firm of Amaro | Baldwin LLP, attorneys of record for Defendant, PETSMART LLC (“Defendant”). As such, I have personal knowledge of the files and pleadings in this matter, as well as the facts stated below. If called upon as a witness, I could and would competently testify as follows:

BACKGROUND

1. On or about October 28, 2021, Plaintiff, JOHN BANKS (“Plaintiff”) commenced a civil action in the Superior Court of the State of California for the County of Los Angeles, captioned *John Banks. v. PetSmart LLC, et al.* Case No. 21STCV39759 (the “State Court Action”). A true and accurate copy of Plaintiff’s Complaint in the State Court Action is attached hereto as **Exhibit “A”**.

2. The Original Complaint was served on Defendants’ Agent for Service of Process on November 5, 2021.

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4. Defendant’s Answer was served on November 29, 2021.

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Ca 91345, from which he received evaluation and treatment, at an alleged cost of \$3,281.00;

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6. Thereafter, Defendant conducted discovery regarding the medical providers identified and learned that \$2,739.79 in amounts were paid by insurance and \$7,209.00 was outstanding (total charges, to date, equal \$18,935.00; of which \$8,986.21 was written off).

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4 10. Accordingly, this Notice is timely filed in compliance with the
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6 **JURISDICTION**

7 11. This matter is removed to the United States District Court for the Central
 8 District of California, on the grounds that there is complete diversity of citizenship
 9 between Plaintiff on the one hand, and Defendant on the other hand, and Plaintiff,
 10 JOHN BANKS recent response to the Defendant's Request for Statement of Damages
 11 asserts that the amount in controversy exceeds \$75,000. The facts supporting
 12 jurisdiction are as follows:

13 12. Plaintiff, JOHN BANKS alleges that he is a citizen of the State of
 14 California, County of Orange. (See **Exhibit "B"** Plaintiff's responses to Form
 15 Interrogatories 2.5, Page 2, line 12).

16 13. Defendant, PETSMART LCC was, and currently is, incorporated in the
 17 State of Delaware. (Attached hereto as **Exhibit "E"** is a true and correct copy of
 18 Defendant, PETSMART's Limited Liability Company Certificate of Formation.
 19 PETSMART principal place of business is located in Phoenix, Arizona. (Attached
 20 hereto as **Exhibit "E"** is a true and correct copy of Defendant, PETSMART LLC's
 21 Statement of Information, filed with the State of California, Secretary).

22 14. Accordingly, Defendant is not a citizen of California, PETSMART LLC
 23 principal place of business is located in Phoenix, Arizona. The citizenship of all
 24 defendants is diverse from that of Plaintiff.

25 15. Plaintiff does not allege that PETSMART, LLC, has a principal place of
 26 business in California, and PETSMART, LLC, is registered as an out of state entity.

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13 PetSmart, on June 29, 2020,. (*see Exhibit "A"*, Complaint, Paragraphs 5-7).

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 11 Court of Los Angeles, which will be filed in that Court. A true and correct copy of
 12 such notice is attached as **Exhibit "G"**.

13 DEMAND FOR JURY TRIAL

14 27. Pursuant to the Seventh Amendment to the United States Constitution
 15 and Rule 38(b) of the Federal Rules of Civil Procedure, Defendant, PETSMART LLC
 16 hereby respectfully demands a trial by jury.

17 I declare under penalty of perjury under the laws of the State of California that
 18 the foregoing is true and correct, and that this declaration is executed on July 21,
 19 2022, at Long Beach, California.

20
 21 AMARO | BALDWIN LLP

22 By: 

23 RUDIE D. BALDWIN
 24 Attorneys for Defendant,
 25 PETSMART LLC
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 27
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